THE HON'BLE MS. JUSTICE G.ROHINI

W.P.NO.3316 of 2005

Date: 24-01-2006

Between:

1. R.Pulliah and another

…Petitioners

a n d

1. Station House Officer, P.S. Paloncha Town, Khammam District and another.

… Respondents

THE HON'BLE MS. JUSTICE G.ROHINI

W.P.NO.3316 of 2005

ORDER:

The first petitioner is a practicing advocate at Kothagudem. The second petitioner is his wife. It appears that the second respondent herein lodged a complaint against the petitioners on 14-02-2005 in the Police Station, Paloncha Town, alleging that the 1st petitioner was conducting some private chits and that on a request made by him, both the 2nd respondent and his wife subscribed two chits at the rate of Rs.2,000/- per month. It was also alleged that the second respondent paid

22 installments which was acknowledged by the 1st petitioner, but when the 2nd respondent and his wife became the prized subscribers, the petitioners failed to pay the prize amounts to the tune of Rs.50,320/-. When the second respondent demanded the payment, the petitioners abused him in filthy language and threatened with dire consequences. Hence, the 2nd respondent lodged a complaint with the 1st respondent, on the basis of which FIR No.47 of 2005 was registered on the file of the first petitioner i.e. Station House Officer, Police Station, Paloncha Town, Khammam District, under Section 294(b) of IPC and Section 56(1) of the A.P. Chit Funds Act, 1971. While the investigation is pending, the petitioners filed this writ petition pleading that the second respondent who had entrusted some cases to him, failed to pay the legal fees and when he asked for the payment of fees, the 2nd respondent refused to pay and abused him in filthy language and he was also making threatening calls to the first petitioner on cell phone. The allegation in the complaint filed by the second respondent that the first petitioner failed to repay the prize amounts to the second respondent has been denied and it is stated that as a matter of fact the first petitioner himself lodged a complaint before the first respondent, on 11-12-2004, but the Station House Officer, Paloncha Town Police Station, failed to register a case against the 2nd respondent. It is also alleged that the FIR No.47 of 2005 on the file of the first respondent was registered on a complaint given by the second respondent as a counter blast to the case filed by the first petitioner to wreak vengeance since he was asking for the payment of legal fees to which he is legitimately entitled to for the cases conducted on behalf of the second respondent. Thus, the petitioners prayed to quash the FIR No.47 of 2005 on the file of the first respondent.

2. This Court while issuing notice before admission, by order dated 23-02-2005, granted interim stay of all further proceedings in pursuance of FIR No.47 of 2005 on the file of the first respondent including arrest of the petitioners.

3. The first respondent filed counter affidavit stating that the investigation is at the initial stage and the same could not be proceeded further in view of the interim order passed by this Court. It is also stated that no complaint whatsoever has been received from the petitioners and that on the basis of the complaint lodged by the

second respondent, FIR No.47 of 2005 has been registered and the investigation has been taken up.

4. The second respondent filed a separate counter affidavit reiterating the allegations made in the complaint and stating that absolutely no case is made out to stay the proceedings in the FIR No.47 of 2005 on the file of the first respondent.

5. Having heard the learned Counsel for both the parties and having perused the material on record, I do not find any justifiable reason to issue a writ of Mandamus as prayed for since the law is well settled that no investigation in a criminal proceeding can be quashed unless the allegations contained therein, even on their face value taken to be correct, make out no case.

6. Accordingly, I deem it appropriate to dispose of the Writ Petition leaving it open to the 1st respondent to proceed with the investigation in Cr.No.47 of 2005 in accordance with law. However, having regard to the fact that the offence under Section 294 (b) of I.P.C. is a bailable offence, the interim order dated 23-02-2005 passed by this Court as modified by order dated 22-03-2005 directing the 1st respondent not to take any coercive steps against the petitioners shall continue till the investigation is completed.

7. However, it is made clear that this Court shall not be understood to have expressed any opinion on merits and in case it is found that the petitioners are tampering with the evidence or interfering with the investigation, it is always open to the 1st respondent to take appropriate steps following due process of law.

8. The Writ Petition is accordingly disposed of. No costs.

24-01-2006

cvrk